

The following executive communication was then taken from the Speaker's table and read :

EXECUTIVE OFFICE, }  
AUSTIN, Texas, 19th August, 1856. }

*Gentlemen of the Senate,  
and House of Representatives :*

I return herewith to the House of Representatives, in which it originated, "an act authorizing Jno. Mooney to construct a dam across San Marcos river, cut a race from the same, on the E. bank of said river and to erect Mills and Factories thereon." The 2nd Section of this act provides, "that the said Mooney shall have the power and the right to connect the opposite bank of the river San Marcos with the mill dam connected with said mill and factory, and to use the opposite bank of said river for any necessary purpose, within the scope of this charter ; provided, that said Mooney shall pay the owner or owners of said opposite bank, such damage for the use of the same, as a jury of six men selected by the County Court of Gonzales county, shall on their oaths assess."

An examination of the entire act will show that it is solely for the benefit and profit of Mr. Mooney, and the section quoted gives him the right to appropriate the property of an adjoining proprietor to his own use and profit without first obtaining the consent of the owner.

The Legislature may take and appropriate individual property for the accommodation of the public, without the consent of the owner, if they make adequate compensation for it, but there is no principle better established, than that individual property cannot be taken or appropriated for private use without the consent of the owner. This act attempts to violate that principle and is therefore unconstitutional.

It is not very material to the party whose rights are involved by this act. Whether this objection is sustained or overruled by the Legislature, except that if it is sustained, it will save him the trouble and expense of applying to the Courts for an injunction. It is better, however, that an act which authorizes

such a glaring invasion of private rights, should not be placed upon our Statute Books. I therefore return it to you for your reconsideration.

E. M. PEASE.

On motion of Mr. Moore, referred to Judiciary committee.